

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

Jennifer Rogers Bergmann,

Debtor,

E. Perry Burris, III and Lake Como, LLC,

Plaintiffs,

v.

Jennifer Rogers Bergmann,

Defendant.

C/A No: 16-02250-DD

Adv. Pro. No. 16-80113-DD

**MOTION TO DISQUALIFY COUNSEL
ASHLEY TWOMBLEY PURSUANT
TO SOUTH CAROLINA RULE OF
CONDUCT 3.7**

MOTION TO DISQUALIFY COUNSEL, ASHLEY TWOMBLEY, PURSUANT TO

RULE 3.7.

Defendant, Jennifer Bergmann, through her undersigned counsel, requests that, Ashely Twombley, one of Plaintiff's three attorney's in this matter, be disqualified from representation based on the following:

Rule 3.7: LAWYERS AS WITNESS states:

RULE 3.7: LAWYER AS WITNESS

- (a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless:
- (1) the testimony relates to an uncontested issue;
 - (2) the testimony relates to the nature and value of legal services rendered in the case; or
 - (3) disqualification of the lawyer would work substantial hardship on the client.

(b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by Rule 1.7 or Rule 1.9.

Counsel objected, in writing, to the continued representation of Mr. Twombly based on Rule 3.7 to all three lawyers representing Plaintiff. Mr. Twombly, in writing, refused to comply with the Rule while Mr. Drose deferred any response to counsel's objection to Mr. Twombly. Based on the refusal to comply with the Rule; the filing of this Motion is necessary.

None of the three exceptions to the Rule above applies in this case. Mr. Twombly is an extremely necessary witness in this case. His testimony relates to a contested issue and not to the nature and value of legal services rendered. And, his disqualification would not work a substantial hardship on the client as the client is well represented in two competent bankruptcy lawyers by way of Ann Bell and Michael Drose.

WHEREFORE, counsel objects to the continued representation by Mr. Twombly and respectfully requests that this court disqualify him from representation. Additionally, counsel requests attorney fees in prosecution of this Motion and any other relief the court finds just and proper.

Respectfully submitted,

s/ Michael G. Matthews
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September 29, 2016
Beaufort, South Carolina

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

Jennifer Bergmann,

Debtor

E. Perry Burris, III and Lake Como,
LLC,

Plaintiff

vs

Jennifer Bergmann,

Defendant

)
) CASE NO.: 16-02250-dd
) Adversary Pro. No.: 16-80113-DD
)

)
) CERTIFICATE OF MAILING
)

I, the undersigned legal assistant of the law office of Michael Matthews, Attorney
at Law, attorneys for the debtor(s), do hereby certify that I have mailed a copy of the
Motion to Disqualify Counsel Ashley Twombly Pursuant to South Carolina Rule of Conduct 3.7
in the above matter, first class mail, postage prepaid to each of the parties listed below in said
action, this 28th day of September, 2016.

Ann U. Bell Esquire
Michael Drose, Esquire
For E. Perry Burris, III and
Lake Como, LLC
3955 Faber Place Drive, Ste 103
Charleston, South Carolina 29405

J. Ashley Twombly, Esquire
311 Carteret Street
Beaufort, South Carolina 29902

/s/ Jenny Durham
Jenny Durham

